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OFFICE OF PETITIONS

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| In re Application of | : | DECISION ON |
| Victor Gogolak | : | PETITION |
| Application No.: 09/681585 | : | |
| Filed: 05/02/2001 | : | |
| Attorney Docket Number: QED0001 | : | |

This is a decision in response to the Request to Withdraw Holding of Abandonment, filed January 5, 2007. The petition is properly treated under 37 CFR 1.181. The delay in treating this petition is regretted.

This Petition to withdraw the holding of abandonment is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final office action mailed January 13, 2006. The final office action indicated that no claims were allowed. Extensions of time under 37 CFR 1.136(a) were available.

Applicant filed an Amendment in response to the Office action on July 13, 2006, along with a three (3) month extension of time request and fee, and a Notice of Appeal. The Amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed August 14, 2006.

No complete and proper reply having been received, the application became abandoned on March 14, 2006. A Notice of Abandonment was mailed December 13, 2006.

The present petition

Applicant files the present petition and asserts that a timely reply to the Office action, to wit – a Notice of Appeal and Extension of time request and fee, were filed on July 13, 2006. In support of this assertion, Applicant files a copy of a return receipt postcard acknowledging receipt by this Office of, *inter alia*, a Notice of Appeal, on July 13, 1006

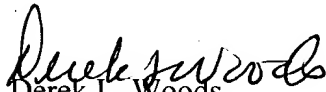
Applicant has also filed with the present petition a Request for Continued Examination (“RCE”) and fee, and a four (4) month Extension of Time request and fee.

A review of Office records reveals that this office received the Notice of Appeal and fee on July 13, 2006.

In view of the above, the holding of abandonment for failure to timely and properly reply to the final Office action is hereby withdrawn.

The application is being referred to Technology Center Art Unit 2129 for processing of the RCE¹, using as the submission the Amendment filed on July 13, 2006².

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.



Derek L. Woods

Attorney
Office of Petitions

¹ The filing of the RCE withdraws the application from appeal and re-opens prosecution. See, MPEP 701 and 1215.

² See, 37 CFR 1.114.